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LEGAL EDUCATION IN MALAYSIA:

A REVIEW

By

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See also Rashid, "The Law Teacher in Malaysia", (1975) 1 JML, pp. 21-22; also Rashid, "The Law Teacher in Malaysia" in The Report of the First ASEAN Law Conference, Jakarta, 1979, pp. 21-22.

L.A. Rashid, "Legal Education in Malaysia", in JML, 1975, 1, pp. 21-22.

L.A. Rashid, "The Law Teacher in Malaysia", in JML, 1975, 1, pp. 21-22.

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INTRODUCTION

Much has been said elsewhere on the subject of "legal education" in Malaysia.¹ This paper will attempt to avoid any duplication of what has already been written on the subject. Suffice to confine itself to an evaluation of the whole course structure, syllabus and teaching methods in order to see what the future can hold for legal education in this part of the world.

Today, Malaysia is facing a problem of shifting academic emphasis. In the 1960's, 70% of university graduates came out from the Arts stream, and 30% from the Science stream. Today, the percentage is about 60% to 40%, and in the 1980's the percentage will be about equal. Again, in the Arts stream, more and more students have shifted in the academic emphasis from the traditional liberal arts to professional courses, such as law, accounting, valuation, town and country planning, etc. This was done in response to a changing pattern of society, from a traditional agricultural society to a modern semi-industrial society. The changing of emphasis was largely due to the availability of such professional courses in Malaysia itself.

It is feared that with the changing of emphasis, more and more brilliant students - the cream of the student population - would be inspired to do degrees in the Science stream, such as medicine, engineering, dentistry, etc. thereby leaving the average or below average students to do degrees in the Arts stream, such that we have brilliant medical doctors, but mediocre lawyers, planners and politicians.

Bearing that in mind, the questions to be asked are these: What type of legal education do we need for Malaysia in the year 2000 and beyond? How many lawyers do we need? How many legally qualified people can Malaysia usefully employ? What type of lawyers do we need? How many students aspire to study law? How many graduates who are working want to study law? The number of questions is endless.

This paper does not pretend or claim to be a crystal ball. It is purely intended to provoke some initial thinking and later to encourage scientific research - either by the government or by private individuals and students - to inquire into these questions. The Manpower Planning Unit of the Prime Minister's Department puts law as the lowest priority, for the obvious

¹ See Ahmad Ibrahim, "The Law Teacher in Malaysia", (1976) 3 JMCL, pp. 251-264, Ahmad Ibrahim "Legal Education" in The Report of the First Malaysian Law Conference, 15th - 17th July, 1971, pp. 91 - 128.
 L.A. Sheridan, "Legal Education" in (1961) MLJ lxxxv.
 L.A. Sheridan, "University Law", in (1956) MLJ xxviii.
 R.H. Hickling, "Some Thoughts on Legal Education in Singapore," (1977) 1 M.J. xxii.
 K.G. Machado and A. Rahim Said, "The Malaysian Legal Profession in Transition", (1977) 2 MLJ lxxxiii.

INTRODUCTION

reason that Science and Technology are the watchwords for today's elite and bourgeois. Many people are interested to find out how many doctors we need, for health is the key to everything, rather than how many lawyers we need to fight for our fundamental rights and liberties.

II

LAWYERS AND FUTURE LAWYERS

A. The Lawyers

Today, there are about 1,700 men and women qualified in law in the whole country. This can be summarised as follows:

TABLE 2.1

LEGALLY QUALIFIED PERSONS BY SECTOR,

1978

Institutions	Numbers
Government Service	199
Practising Lawyers	1,029
Academicians	41
Others	200 ^a
Sabah	100 ^b
Sarawak	200 ^b
Total	1,700

Sources: Staff List, 1977
Bar Council, List of Advocates and Solicitors, 1977-78.
Add: New Admissions to the Bar, (1978) 1 M.L.J. lxxxiii and 1979.
Handbooks, Faculty of Law, University of Malaya and Mara
Institute of Technology, Prospectus, 78/79.

a - Estimates, including the 78 lawyers who did not take out Annual Certificate.

b - unofficial figures.

Most, if not all, of such persons are trained in Common Law countries. About 60% of them received their training in England, Scotland, Wales or Northern Ireland, 30% in the University of Singapore, 10% in the University of Malaya and a very small number, a negligible percentage, received their training in Australia and New Zealand.

Of these numbers again, most of them are pure graduates in law. A few had a combination of other disciplines such as economics, arts, social sciences, political science, etc. This brings us to the crucial issue. Do we need judges, lawyers and academicians who are well versed in laws but ignorant of the society they serve? Is law a discipline that is so technical in nature that one should reject other disciplines?

Going through the law reports, particularly the Malayan Law Journal, one would find that 60% of the cases have been decided either on purely legal grounds or on technical grounds. Equity and justice come into play in only a limited number of cases. In other words, procedure is more important than substance.

B. The Law Students at Home

At present there are 299 law students in the Faculty of Law, University of Malaya, 49 of whom are expected to graduate in 1980. This number will be increased to 400 in 1981, through an intake of about 100 students per year.

TABLE 2.2
LAW STUDENTS IN THE
UNIVERSITY OF MALAYA
(1979/80)

Year	Number
I	105
II	91
III	54
IV	49
Total	299

C. The Law Students Overseas

No one can give an exact figure of how many law students are studying overseas. Some give a figure of 400 while others estimate a higher figure of 800.

Most, if not all, of these students are studying in the United Kingdom, Singapore, Australia, New Zealand and Hongkong.

D. The Law Graduates

The main concern of the graduates from the Arts stream in recent years has been the frustration in searching for employment. Some have to wait for as long as three years, while others - the lucky ones - for six months. Some are looking for employment while others are looking for suitable appointments.² The relevant institutions are also concerned with the problem of oversupplying the graduates. The government, though not the Ministry of Labour and Manpower, is concerned with the problem of creating job opportunities not only for graduates but for everyone.

Fortunately, at least for the time being, the law graduates do not seem to be facing any difficulty in seeking employment. They are either absorbed into the government service immediately after their results have been announced, or they get the opportunity to do their chambering, thereby giving them the opportunity to practise as advocates and solicitors.

Time will come when law graduates will find the same difficulty in getting employment like other graduates from the Arts stream. To ensure that they retain the "saleability", we must ensure that not only their standards have been maintained or increased, but also the knowledge that they gain in the university is omniscience, omnifarious, omnificent and applicable at all times in all circumstances.

How do we achieve this? An interdisciplinary approach is the only answer to the problem. We want our law students to have some knowledge of economics, history, culture, language, literature, sociology, political science, philosophy, public administration, management, accounting, public relations, human relations, religion, natural sciences, and other related disciplines. Lawyers will laugh at this suggestion, judges might be shocked, awarding bodies might withdraw their support, academicians might brush them off with such remarks as "irrelevant" or "impossible".

²There are over 1,000 unemployed graduates in Malaysia today. See Utusan Melayu, 30th January, 1979.

III

THE LAW SCHOOL TODAYCourses

At present, 14 compulsory and 34 optional courses are offered to the students in the Faculty of Law, 17 from the Faculty and 17 from outside the Faculty. However, only 9 Faculty courses were taken by the students, as the Faculty imposes a condition that a minimum number of 10 students should opt for a particular course before such course can be taught.

The courses are as follows:

TABLE 3.1

COMPULSORY COURSES

Year	Courses
I	Malaysian Legal System Contract Torts
II	Criminal Law Family Law Constitutional Law Land Law
III	Law of Association Equity and Trusts Evidence
IV	Jurisprudence Administration of Criminal Justice Civil Procedure Project Paper

TABLE 3.2

FACULTY OPTIONAL COURSES

Year	Courses
II	Introduction to International Law
III & IV	Public International Law Administrative Law Islamic Law Customary Law Comparative Law Conflict of Laws International Business Transactions Commercial Transactions Labour Law Shipping Law Revenue Law Banking and Negotiable Instruments Insurance Conveyancing and Landlord and Tenant Current Problems in International Law Legislative Drafting International Human Rights and Humanitarian Law

Staffing

One of the problems - in fact the biggest problem - facing the Law Faculty is the inability to get enough teachers to be permanent members of the staff. The attraction in the legal profession is unmatched. The minimum qualification is very high but the pay structure is very low compared with other professional faculties. A first class honours graduate cannot dream of becoming an instant lecturer, whereas his counterpart across the causeway might be able to be absorbed as lecturer immediately after graduation.

The salary structure at the University of Malaya is as follows:

Tutors	\$ 865 - \$ 1465
Lecturers	\$ 1285 - \$ 2205
Associate Professors	\$ 2525 - \$ 2865
Professors	\$ 2965 - \$ 3365

After an initial period of two years, a practising advocate and solicitor will end up earning double of what his counterpart in the university is getting. After 10 years, he might even get a five-figure income.

Research

Since its inception in 1972, the Law Faculty of the University of Malaya has put emphasis on research by both staff and students. Since 1974, research by the staff has been published in the Journal of Malaysian and Comparative Law, the Malayan Law Journal and elsewhere. Until June 1978, 47 articles, 25 case notes, 22 legislation notes, and 15 book reviews have been published. Some members of the staff have also produced some books which have been published and the Faculty has translated some of the more important statutes into Bahasa Malaysia. In order to encourage legal writing, an Annual Survey of Malaysian Law has been started from 1977.

Research by the students is of two types: thesis by the Master's degree student and Project Paper by the undergraduate student. So far, 10 theses have been written by the Master's degree students. The topics range from administration of justice to comparative law and Islamic Law.

Research by undergraduate students has been confined to the Project Paper, a compulsory course imposed on the students. A Law student is required to write a paper of about 10,000 words on any socio-legal topic during the long vacation after completing their Third Year. So far, 204 project papers have been written, 153 titles in English and 51 in Bahasa Malaysia. Of these 29 or 14.2% have been graded as excellent, that is papers obtaining a First Class and with certain editorial work, many of them can be published.

The Law Library

With an acquisition of 55,000 volumes of textbooks, reports and journals, the Law Library is adequate for an infant faculty, but inadequate to cater for 400 students and 40 teachers in 1981. It is hoped that a further grant of \$1 million will be made available under the Fourth Malaysian Plan to acquire at least another 45,000.

Examinations

The educational system in Malaysia today is examination-oriented. A candidate may score a maximum of nine distinctions in the M.C.E. examination, yet he may not even be able to stand on the platform to give in impromptu speech on such a simple thing as expressing words of thanks.

The same is true with tertiary education. But the Law Faculty is an exception. To get a First Class Honours, he or she³ must not only pass the written examination with flying colours, but must appear in a viva voce before an Examination Board consisting of about 15-20 examiners and the External Examiner, and be able to produce an excellent research paper. Written examination for the 19 courses carries a maximum of 75% of the total marks while the balance of 25% goes to his essays, research, surveys, etc.

This paper strongly feels that the examination oriented assessment be cut down further to 50% of the whole course. The other 50% should be allotted as follows:

- 20% for social survey of projects;
- 10% for written assignments, essays, etc.;
- 10% for class participation;
- 10% for translation (testing the ability to master the languages).

In awarding the 20% of the social survey the lecturer-in-charge of a course will assign a small project to be undertaken by an individual or a group of students. For example, the criminal law student will have to conduct one week's field work on any topic relating to criminal law or criminology, and then write a report. He may decide to stand at a street corner and count the number of traffic offenders, for example those who do not stop at the red light, speeding, not wearing crash helmet, etc. He will then write a 20-page report. He may visit a prison and write a report about the prisoners. The 20 marks will be awarded on the basis of the report submitted to the lecturers. This will apply to all the 19 courses from Year I to Year IV.

This will help to enrich the knowledge of the student, teach him to apply theory to practical problems, and more important, such papers will increase the treasure of knowledge in the Law Library.

Four Years or Five Years?

At present, the Law Faculty of the University of Malaya is offering a four-year degree course leading to the degree of LL.B. Honours. The classes awarded are Class I, Class II (Upper), Class II (Lower) and Class III. Students are required to take a total of 20 courses (including a project paper) and a language, either English or Bahasa Malaysia.

³ So far there was one he and five shes.

It is felt that the present four-year course is adequate to prepare a student to be a lawyer, but inadequate to prepare him to be a good lawyer. To be a lawyer is one thing, but to be a good lawyer is something else.

It is recommended that a five-year course be introduced in the Faculty. This may be divided into two parts - academic and professional.

VI. Year I

A. The Academic Degree (Bachelor of Arts in Law (B.A. Law))

The present intake of 100 students per year may be increased to 200 or even 300 students per year to do a three-year course leading to the Bachelor of Arts degree in Law. The courses that may be offered are as follows:

Year I

1. Language
2. Malaysian Legal System
3. Law and the Malaysian Society
4. Contract
5. Torts
6. One optional from Economics or Arts Faculties

Year II

1. Language
2. Family Law
3. Criminal Law
4. Constitutional Law
5. Equity and Trusts
6. One optional from Economics or Arts Faculties
7. Research Methodology (non-examination course)

Year III

1. Language
2. Jurisprudence and Legal Philosophy
3. Law of Association
4. Administrative Law or International Law
5. Islamic Law
6. Project Paper

Those who pass will then be awarded a degree of Bachelor of Arts in Law, according to Honours with class or only with a pass degree. Those who excel, depending on the number to be determined by the government on the needs of the nation, will proceed to do a further two-year course leading to the LL.B. (professional).

The following courses may be offered.

Year IV

1. Legal Methods
2. Criminal Procedure
3. Evidence
4. One advanced course
5. Civil Procedure
6. Moot, Public Speaking and Public Relations
7. Management, Accounting and Taxation

Year V

1. General Paper (Ethics, Law and Development, etc.)
2. Pleadings or Legislative Drafting
3. Conveyancing or Company Practice or Bankruptcy
4. Legal Clinics and Legal Aid
5. Attachment
6. One advanced course
7. Thesis

This paper advocates a new breed of lawyers for the year 2000 and beyond: lawyers who are responsive to social needs, and not lawyers who are rigid in procedures rather than substance, who are brilliant but unethical, who may know the intricacies of the law but hardly know anything about their own society.

To achieve this, we must teach our students the concept of law and development. We must also teach them to find out the answers to such questions as "What role should the law play in nation building?" "Can we use law as an instrument of development and as an agent of change?", etc.

The Role of the Law Faculty in Society

Since its inception in 1972, the services of the law teachers in the Law Faculty are much sought like "hot cakes", not only within the university but also outside the university. The university and other institutions are more conscious in knowing

more about law. The staff are presently engaged in giving lectures to the following institutions:

A. Within the University

- 1) Faculty of Arts & Social Sciences
- 2) Faculty of Economics & Administration
- 3) Faculty of Engineering
- 4) Faculty of Medicine

B. Outside the University

- 1) Universiti Kebangsaan Malaysia
- 2) Universiti Teknologi Malaysia
- 3) Universiti Pertanian Malaysia
- 4) Universiti Sains Malaysia
- 5) Nilam Puri
- 6) Intan
- 7) Police College
- 8) Armed Forces Staff College

Intake of new students

The Faculty has been accused by many sectors of favouring Bumiputras in the intake of new students into the Faculty, thereby discriminating against non-Bumiputras. This is true, and it was done on purpose - to restructure society under the New Economic Policy. Let us look at the statistics.

It is often said that the Faculty is biased on equal merit, then it might take another two centuries to restructure society. This is because most of the Bumiputras come from rural areas. They are handicapped in terms of facilities: few books, few good teachers, inadequate libraries or poor access to libraries, poor diet and a host of other weaknesses.

Secondly, the legal profession is still within the domain of non-Bumiputras. In 1978, there were only 129 Bumiputras or 12.5% in private practice, 49.5% Chinese and 38% Indians. The racial composition of the country in 1978 was 55% Malays, 32% Chinese and 12.5% Indians. To offset this imbalance, the intake of Bumiputras law students has to be doubled, and with the present intake of 100 per year, reflecting the ethnic composition of the country, the balance can only be achieved in the year 2003, that is 27 years from now. Even if racial composition of the Bumiputras is increased to 100 per year, the balance can only be achieved at the turn of the century.

TABLE 3.3
LEGALLY QUALIFIED PERSON IN PENINSULAR
MALAYSIA, BY RACE, 1978

	Malays		Chinese		Indians		Others		Tot
	No.	%	No.	%	No.	%	No.	%	
Judicial & Legal Service	147	73.8	21	10.6	28	14.1	3	1.5	199
Practising Advocates & Solicitors	129	12.5	509	49.5	369	35.9	22	2.1	1029
Academicians	18	43.9	6	14.6	15	36.6	2	4.9	41
Others	n.	a.	n.	a.	n.	a.	n.	a.	n.
Total	294	23.2	536	42.2	412	32.5	27	2.1	

Sources: Malaysia, Staff List, 1977
Bar Council, List of Advocates & Solicitors, 1977-78.
Faculty of Law Handbook, 1978
MIT Prospectus, 1978-79

The percentage of legally qualified Bumiputras in Peninsular Malaysia is only 23.2% as opposed to 32.5% Indians and 42.2% Chinese.

If admission were to be based on equal merit, then it might take another two centuries to restructure society. This is because most of the Bumiputras come from rural areas. They are handicapped in terms of facilities: few books, few good teachers, inadequate libraries or poor access to libraries, poor diet and a host of other weaknesses.

Secondly, the legal profession is still within the domain of non-Bumiputras. In 1978, there were only 129 Bumiputras or 12.5% in private practice, 49.5% Chinese and 35.9% Indians. The racial composition of the country is 55% Malays, 35% Chinese and 10% Indians. To offset this imbalance, the intake of Bumiputra Law students has to be doubled, and with the present intake of 100 per year, reflecting the ethnic composition of the country, the balance can only be achieved in the year 2006, that is 27 years from now. Even if racial composition of the Bumiputras is increased to 70% per year, the balance can only be achieved at the turn of the century.

The Malaysian educational system has been largely influenced by the historical, cultural, economic, social and political environment. Legal education is an exception. It has been influenced more by the historical and legal environment rather than by the cultural, economic, social and political environment. Ninety percent of our lawyers received their training overseas. Instead of modifying our laws to suit our cultural, economic, social and political needs, we import foreign legislation, some in toto, others with certain modifications. The Companies Act, 1965 and the Trade Description Act, 1972 belong to the former, while hundred of others belong to the latter.

Ironically, we say Malaysia is a developing nation susceptible to change. But at the same time, we read, study and apply discarded British laws on Civil Procedures for we still stick through thick-and-thin to the so-called "1957 White Book". Even the colour of this book has changed from white to dirty grey ages ago. To be sure, the irony is that the British judges and lawyers have thrown the "White Book" into the North Sea more than two decades ago, to find out that the same "White Book" has drifted 8,000 miles away to the Straits of Malacca.

Another so called "development" has been that a man who claimed himself to be Abu Bakar Al-Siddique, the Successor to Prophet Mohammad, was fined a total sum of 3,000 cents (three thousand cents) under the 1912 laws. Whither we?

The Malaysian legal system is basically British in outlook, substance and procedures. Our judges are no different from the British judges. They wear the same wig, the same gown, the same bib⁴ as their British counterparts.

This paper strongly feels that we need to have a second look at our judicial and legal system. We sit in the Malaysian courts and not in British courts sitting in Malaysia. We administer justice in the Malaysian way and not British justice in the Malaysian way.

Let us plan our strategy in phases so as to avoid any disruptions in the administration of justice.

Phase I (10 - 20 years; 1980-2000)

1. Planning for legal education
2. Acquisition of local legal literature as an on-going process.
3. Expansion of the law library by two-fold.
4. Translation of statutes, reports and journals as an on-going process.
5. Implementation of restructured syllabus.

⁴For twenty years, the Speaker of the Malaysian Parliament, the President of the Senate and the Clerks of the two Houses wore the same outfit as their counterparts in the British Parliament but have changed to look more Malaysian in 1977.

(Country paper presented at ASEAN Conference on Legal Development, 1979)

The institution concerned with basic legal education in Singapore is the Faculty of Law, University of Singapore. It was established in 1957. The other institution which is also concerned with legal education is the Board of Legal Education set up in 1967. The concerns of the Board of Legal Education are with the preparing and examining of persons for law practice in Singapore.

Faculty of Law, University of Singapore

The three degrees in law offered by the Faculty of Law, University of Singapore, are the Bachelor of Laws, the Master of Laws and the Doctor of Philosophy.

Bachelor of Laws

The Bachelor of Laws is an Honours degree of four years duration, taken full-time. Part-timers however take two years longer. In the initial years of the Faculty there was a good response to the part-time course. However in the course of the years the part-time course has become virtually non-existent. The reasons for this could be several. The length of the course, the gruelling nature of law studies and the fact that no special classes are run in the evening for part-timers so that they are obliged to attend classes during normal working hours may be some of the reasons for the disappearance of this species of law students.

Curriculum

The LL.B. Singapore is a first degree in law. It is at the same time an academic as well as a professional qualification;¹ "... it must provide, first and foremost, a university education in law and secondly, if that is consistent with the first objective, it must so frame its bachelor's degree that it will be acceptable as a professional qualification without further formal instruction in substantive or objective law"² It is this twin function that has determined the curriculum content and it is this duality of function of the degree that has prompted the revision of the curriculum from time to time.

The present curriculum came into operation ten years ago. The objectives of this curriculum are firstly to teach the basic "bread and butter" subjects. These are Introduction to Law, Criminal Law, Torts and Contract Law in Year I, and Family Law, Company Law, public Law and Land Law of Year II. In the Third and Fourth years the students are required to read four compulsory subjects, Trusts and Evidence in Year III, Administration of Criminal Justice and Civil Procedure in Year IV, and three optional subjects in each of these years. The compulsory courses are again the basic courses and those subjects which a practitioner would need to know.

Secondly, the curriculum is designed so as to enable a student a choice of subjects to suit his inclination and ability and yet ensure that he would have exposure to "perspective" courses as well as the more technical specialised subjects.

¹ The LL.B holder is a 'qualified' person within the Legal Profession Act 1970, Singapore Statutes Cap.

² Calvert Coomaraswamy and Sheridan "Legal Education in Malaya" (1960) J.S.P.T.L. 155.

By "perspective" courses are meant those subjects which compel students to appreciate and understand the individual subjects which they had studied in relation to the whole legal system, courses which show the interrelation of law and society, which focus on the purpose and function of law. Jurisprudence, Law and Society, Comparative Legal History are some examples of "perspective" courses. The curriculum also permits a student to take at the maximum two non-law courses offered by the other Faculties. The availability of these courses is made not only on the assumption that some knowledge of non law subjects is good in itself but also that these courses would enhance the students appreciation of the law subjects.³ Hence they are offered to the students in the later years rather than in the initial years of their law studies. The students are not given a complete free hand in the choice of non law subjects; their choice is within the selection of subjects made for them by the Dean. The criterion which the Dean uses in making this choice is the supportive or contextual element of the non law courses to the law courses taught. For example the non law subject of Sociology of the Family offered by the Department of Sociology is available to the law student for it should place him in a better position to evaluate the laws relating to marriage, divorce and legitimacy. Likewise a student of Public International Law's appreciation of the subtleties of the subject would be enhanced if he were to study the subject in Political Science.

For the students who desire only to know more specialised law subjects there is a list which includes such subjects as Revenue Law, Banking, Insurance and Shipping Law to name just a few.

The problem which the Law Faculty faces in respect of its curriculum is the desire on the one hand to minimise the practical incompetence of the raw graduate with the other function of a law school which is not only to train "journeymen practitioners" but also "the men who must be leaders and set the standards and tone, and provide the imaginative insights for an important part of the community for many years after leaving law school."⁴

As Prof. T.T.B. Koh asked⁵ "(i)s it the purpose of the Law School to prepare its students for the practice of law or to give them a liberal education through the medium of law?" In an earlier article on "Legal Education in Malaya"⁶ the authors indicated that these two seemingly opposed objectives are not so. "They are consistent because... the antithesis between academic and professional training is largely illusory."⁷ T.T.B. Koh endorses this view and explains the non-conflict, he states, "(T)he purpose of the Law School is two-fold. It is first, to develop the law students ability to think logically, to differentiate between the relevant and the irrelevant, to communicate thought effectively and to discriminate among values. All these qualities are necessary for the successful practice of law. The second purpose is to give law students a deep understanding of the nature of the legal process and of the basic principles of law. This knowledge is also necessary for the practice of law."⁸

³ See T.T.B. Koh "Legal Education Singapore" (1968) 9 Me Judice 21 at p. 25.

⁴ Per Dean Griswold "The Future of Legal Education" (1953) 5 Journal of Legal Education 438 at pp. 443-4.

⁵ T.T.B. Koh "Legal Education in Singapore (1968) Me Judice 21 at p.

⁶ Calvert, Coomaraswamy and Sheridan "Legal Education in Malaya" (1960) J.S.P.T.L. 155

⁷ Ibid

⁸ T.T.B. Koh op. cit. at pp. 25-26

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However, the recurrence of curriculum changes in the Law School indicates that while in theory and in logic the conflict between the two aims of the law school is more apparent than real, in practice it may be different. Practitioners demand that the law graduate should be able to handle problems of law practice deftly almost from the first day of life as a practitioner. So it has often been suggested to the Law Faculty that Conveyancing the life-blood of a Singapore practising lawyer should be made a compulsory subject. The current availability of this subject as an option is to this group of practising advocates and solicitors insufficient. On the other hand there are those who feel that the Law Faculty should not pander too much to the demands of practitioners and at the expense of its role as an academic institution where minds and ~~intellects~~ are developed.

It is said that it is not the subject but how it is taught that is important so that a very practical subject like Conveyancing, or Civil Procedure can be taught in such a way that it is much more than the imbibing of rules. It is ~~then~~ said that there need not be such conflict between what is practical and what is academic. The truth of this is not disputed. However in practice it is difficult to achieve as it demands a teacher who is familiar with the rules and who can teach them in an intellectual way. Moreover in the rather limited time of one academic year there is a tendency where a choice has to be made to sacrifice the teaching of the "wherefores" and "oughts" for what "is." The many changes, in the early years, of the Law Faculty's curriculum reflect the swing between the different schools of thought. The existing curriculum is a compromise. The technical and relevant (in terms of law practice) subjects are available as options, likewise the seemingly less relevant but intellectually demanding subjects. The scheme of options is devised to ensure that the students are exposed to some subjects from each category.

There is a close interrelation between phases of a country's growth in its social political and economic aspects, and law.^{8A} Thus lawyers should be suitably and adequately equipped not only to react to changes when they come but to take a lead in effecting them. This is another demand on the Law Faculty which affects curriculum content as well as how the subjects should be taught.

Thus the current curriculum content reflect an attempt by the law school to satisfy all three objectives as stated. The long list of compulsory subjects seeks to satisfy the demands of the profession that a graduate should emerge from the law school equipped with some basic knowledge of the subjects with which he would most likely be confronted as a practising lawyer. The list of "perspective" optional subjects and the availability of certain non-law subjects to the senior students reflect the other demand on the law school to produce a graduate with a liberal education in law. Finally, the list of specialised optional subjects seeks to satisfy the student who desires to specialise at this stage of his career. By this list of optional subjects the law school hopes to offer subjects that reflect the particular needs of the country.

Teaching Methods

The most common method of instruction is the bi-weekly lectures followed by a tutorial. This method is used where the number of students taking the course is large.

8A See S.M. Thio "The Role of the Law Schools in the Developing Nations" (1969) Mal. L.R.M. Cheang "Legal Education and its role in the Future of Singapore" 4 LAWASIA 53.

The other method of instruction is through seminars. This is used where the number of students taking the course is smaller.

Within these two main methods of instruction there is much diversity. The tutorials can be grouped into two kinds, those which are closely structured with problems set in advance for discussion and those which are totally unplanned and free flowing. The latter style makes greater demand of a tutor and different groups would have different tutorial content. For this reason where there is more than one teacher for the course and when there are younger teachers the closely structured tutorial is to be preferred.

Seminars too differ in that some students are required to deliver papers on given topics. These are then subjected to criticisms from their colleagues. In others the teacher leads the seminar discussion. Where students tend to be quiet and unresponsive to the teacher's questions, the type of seminars where students are required to prepare papers and to discuss it are more successful.

Lectures also differ in style. Some lectures are conducted in the case class and problem method, others seek to lay down the broad framework of the subject, yet others concentrate on individual problem areas in a given subject. Of these it would be fairly true to say that the case class and problem method has not taken firm root as yet. The reasons are many, but perhaps the main reasons would be the relative inexperience of the teachers who themselves may never have been exposed to such a method of instruction. Moreover the problem is compounded by the general reticence of Singapore students. Successful case classes have been conducted where the classes are smaller and where there are casebooks on the subject. The remaining styles of lectures are determined by the availability of text books on a subject. Where these exist then lecturers may with ease of mind concentrate on the problem areas leaving the students to cover the syllabus on their own. However, where there are no adequate text books the lecturers are compelled to cover the syllabus.

Examinations

Whatever the disadvantages of sit down examinations they are a necessary evil of educational institutions. It is the acknowledged task of educationists to minimise the limitations of the system; these are mainly that the 3 hour paper tends to tax the memory rather than intelligence, that there is too much concentrated pressure on the student at the end of the year, and that there is hardly any approximation to the conditions a lawyer is likely to work under in real life.

In the Law Faculty we are mindful of the defects of the traditional 3 hour sit down examination although they form the main method of assessment. To answer the criticism that such examinations tend to tax the memory powers of students rather than intelligence students are permitted access to relevant legislation in the examination hall. Lately we are also trying out the 'open book' examination.

The drawback of this is that some students feel that as the cases and other material will be available in the examination hall they need not be so familiar with them before the examination. This is of course not so.

In addition to the 3 hour sit down examination, in most courses the final assessment is also dependent on classroom performance and performance at a term paper. The weightage attached to these various methods of assessment is generally 10% for class performance, 20-25% for term papers and the balance on the end of year examination.

Most of the assessment is based on a student's written work. Apart from class performance, in the Final Year's examinations students may be called for a viva voce to determine the precise grade that a student should have where some doubts on this are raised on his written work.

In keeping with the thinking that a student's final grade or class should be based merely on the final year's work, but that his other years' performance should also be reflected in his final ranking, the results of the students performance in the second, third and fourth years are weighted in the following manner viz. 20% for the second year, 40% for the third year and 40% for the fourth year.

Master of Laws

The degree of Master of Laws is open to any person who is either a LL.B degree holder from the University of Singapore or to graduates in law from any other University that the Senate may approve.

The degree is currently obtainable only by way of submission of a thesis of about 40,000 words. This has to be written under supervision of one of the members of staff of the Law Faculty. The minimum period of candidature is 1 year and the maximum period is 3 years. Currently there are persons registered for the degree. They are lawyers doing it on a part-time basis. Because of this there have been many casualties. Another constraint on the LL.M. programme is the availability of suitable persons on the staff for supervision. The Faculty is a small one and much if not all of its resources is spent on undergraduate teaching.⁹ It has been said that in view of the rigour of an LL.M. by thesis bearing in mind that the bulk of our LL.M. candidates are doing it part-time, the LL.M. by coursework and mini-thesis should be resuscitated.¹⁰

Such a LL.M. programme could be the answer to two discernible problems of the Law Faculty and of the legal profession. As indicated earlier the Law Faculty's list of optional subjects try to take into account the desires of a student to develop a certain amount of specialisation. Some of these subjects are really too demanding for an undergraduate course. Further there seems to be a growing demand by young lawyers for acquiring knowledge on those subjects which they never did whilst in law school. There is no way at the moment whereby they could get such training except through exposure and osmosis in practice. Thus if there be such an LL.M. programme then those graduates who wish to specialise in a given area of law may do so at postgraduate level. This would also provide a kind of continuing legal education for the younger lawyers. The availability of such a programme would then necessitate a review of the undergraduate optional subjects, so that instead of adding more subjects to the list to meet with the changing needs of society, it should be the LL.M courses that should be determined on this criterion.

⁹ See S. Jayakumar "Twenty one years of the Faculty of Law, University of Singapore: Reflections of the Dean" (1977) 19 M.L.R. 1 at pp. 18-19

¹⁰ Ibid.

The Doctor of Philosophy in Law is open to a person holding a Master's degree in law either from the University of Singapore or from any other University approved by the Senate. It is obtained by the submission of a thesis of about 80,000 words on an approved topic written under the supervision of a member of staff.

The minimum period of candidature is twenty four months and the maximum period is sixty months. To date there are only three persons who hold the Ph.D in law from the University of Singapore.

The Board of Legal Education

The Board of Legal Education was established by the Legal Profession Act¹¹ with the task of providing training, education and examination of persons intending to practise law in Singapore. The Board is made up of the Attorney-General, a judge of the Supreme Court, four representatives of the legal profession two nominated by the Minister for Law, and two nominated by the Law Society, the Dean of the Faculty of Law University of Singapore and two other representatives from the Faculty of Law.

In order to gain admission to the practice of law a person must be firstly a "qualified person" who is defined in the Legal Profession as (a) a holder of a LL.B. from the University of Singapore; (b) a barrister-at-law of England or of N. Ireland or a member of the Faculty of Advocates in Scotland; or (c) a solicitor in England or N. Ireland. Secondly he must successfully undergo the three-month postgraduate practical course run by the Board of Legal Education and then he must fulfil a six-month period of pupillage with an ~~advocate and solicitor~~ who has been in active practice in Singapore for a period of five out of seven years.¹²

The Postgraduate Practical course which prepares a 'qualified' person for practice is organised and run by the Board of Legal Education with the aid of a part-time honorary Director.¹³ The courses are taught by practising lawyers and members of the legal service on a part-time basis. Accordingly most of the classes are conducted in the evenings after office hours. In addition to attending these classes, the students are also required to do such written work as may be assigned by the teachers of the course and to pass such examinations as may be held.

¹¹ 1970 Singapore Statutes Cap. 217

¹² ibid S. 11

¹³ When it was first instituted in 1961 the course was organised by the Dean of the Law Faculty and taught by practising lawyers on a part-time basis. However this state of affairs was corrected in 1975 when the organisation of the course was transferred to the Board of Legal Education.

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It would readily be conceded that the best training for practice is practice itself. This I would imagine is the rationale of reading in chambers for budding barristers and articleship for aspiring solicitors. However the ideal has to be trimmed to accommodate the constraints of numbers of law firms able to respond to the need and the number of persons seeking chambers.¹⁴ In any event it was also thought that even some aspects of practice can be effectively "taught" to groups and even made examinable. Thus in 1961 the first Postgraduate Practical Course of 3 months was instituted. The subjects now taught in this course include Advocacy and Trial Practice, Bankruptcy and Winding Up, Incorporation and Registration of Companies, Practical Conveyancing, Solicitors & Trusts Accounts, Taxation of Costs, Professional Ethics, Legal Drafting, Admiralty Practice, Criminal Procedure and Probate and Administration. On the whole this course may be considered as successful. But some complaints nevertheless exist. Although much improved the course still lacks consistency in standards expected of the student in the different courses. Further whilst there is more written work now it is still insufficient. The cause of these rest mainly on the fact that it is very difficult to get persons who have the right credentials to teach two hours a week for three months to a year. Practitioners with the experience are busy people, it is a tremendous sacrifice on their part to engage in part-time teaching in the Postgraduate Practical Course. Additionally there is a problem of co-ordinating the courses so that they would be conducted at a similar level and would complement one another. This is the task of the Director who has been and still is doing the work on a part-time basis. Fairly senior practitioners who have the inclination and who are prepared to find the time can only take on this demanding post for two to three years at a stretch. Thus there is need for a full-time Director who could not only coordinate the courses but also set down some guidelines on course requirements and syllabi so that even if different persons were to teach a course in different years the variation in course content and standard would be minimised. Such a post calls for a practitioner with considerable experience and such a person would only be enticed from what is certain to be a lucrative practice by an attractive salary and conditions of work. Thus it was only when the Law Society finally agreed to support the cause that the Board of Legal Education could at last agree to advertise the post.¹⁵

The other criticism of the course attacks the very notion that practice knowhow can be taught by the traditional classroom methods. This criticism is in many respects valid. It is not disputed that the Postgraduate Practical course should not duplicate and telescope what has been taught in four years at undergraduate level in 3 months. It should train students by requiring students to perform the tasks that would be expected from them as practising lawyers, in short they should be made to exercises under supervision and subject to correction. If this is the mode of instruction then the institutional method of intraining has the following advantages.¹⁶

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- 14 In any event there are dissatisfaction with this type of professional training which is dependent on the conscientiousness and competence of the Master. See Report of the Committee on Legal Education 1971 Cmnd 4595.
 - 15 The advertisement combines the position of Director of the Postgraduate Practical Course with that of Secretary to the Law Society.
 - 16 The practical training of law graduates for admission to the legal profession in Ontario Canada has such a scheme. See Report of the Committee on Legal Education 1971 Cmnd 4595.

Firstly all students would be exposed to all of the more commonly met with tasks of practitioners. This would to a great extent answer some of the usual criticisms of intraining schemes (pupillage) that a set of chambers may not have the varied work, it may be too specialised; that a master may be too busy to be able to instruct his pupil. Secondly in view of the growing number of "qualified" persons there is increasing difficulty in finding a set of chambers for all persons who wish to be called to the bar. Institutional intraining would to some extent alleviate this problem.

It is hoped that on the appointment of a suitable person as a full-time Director the Postgraduate Practical course could be improved so that even with part-time teaching by practitioners it would better serve its object of providing a link between the undergraduate University training and actual life as a practising lawyer.

Period in Chambers

In addition to attending the 3 months Postgraduate Practical course as described above an aspiring advocate and solicitor has to "read in chambers" for a period of 6 months with a practising lawyer of not less than 7 years experience.¹⁷ This aspect of the professional training is part of our Common Law heritage. Prior to the institutionalisation of a part of intraining by the 3 months Postgraduate course, the length of compulsory pupillage prior to being called to the Bar, was 9 months. The reason for retaining the system of pupillage albeit for a shorter period of time is probably attributable to some skepticism as to the efficacy of the postgraduate practical course. Moreover 3 months is too short a time within which to fully prepare the graduate for actual practice. In any event however good the institutional intraining programme, a period of pupillage or articleship is probably still necessary, for there is no better place to learn the practice of law than in a law office.¹⁸ Indeed if the standard of the legal profession is to be maintained, young lawyers should not be allowed to practise on their own immediately upon their being called to the Bar.

Articled Clerkship

"Articled clerks" are persons who are attached or "articled" to practising advocates and solicitors. Usually they are persons who are employed in the firms of their "principal" in executive positions. The period of articles is generally not less than five years. However for graduates of a university (not necessarily in law) the minimum length of articled clerkship is three years. During this period he is required to sit for and pass such examinations as are stipulated by the Board of Legal Education.¹⁹

This route to the legal profession has hitherto not been too popular for the chances of success are fraught with difficulties.

17 S11(2) Legal Profession Act 1970 Singapore Statutes Cap. 217.

18 Cf. T.T.B. Koh op. cit. at p. 34

19 Currently there are four examinations: the Intermediate Part I covering Contract, Tort and Criminal Law & Procedure, Intermediate Part II covering Public Law, Land Law and Evidence, the Final Part I covering Estates & Trusts, Conflict of Laws, and Commercial Transactions and Final Part II covering Conveyancing, Revenue Law, Associations and Civil Procedure.

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For persons who could not for various reasons, study law in the University of Singapore but who desired nevertheless to practise law the easier alternative to articulated clerkship was to get called to the English Bar.²⁰ It was easier in the sense that they could study for these examinations via correspondence courses. However with the change in entry requirements of the Council for Legal Education in England, it may be that the articulated clerkship route to the profession would be resorted to more often.²¹

Summary and Conclusions

The problems in the field of legal education may be posed in the following contexts: (1) the LL.B. degree offered by the Faculty of Law (2) the postgraduate professional training (3) the continuing legal education of members of the profession.

LL.B. degree

The basic problem here is one of curriculum content as a result of the LL.B. degree being also a professional qualification. "The professional lawyer requires general and broadbased education to enable him to adapt himself successfully to new and different situations as his career develops; an adequate knowledge of the more important branches of law and its principles; the ability to handle fact both analytically and synthetically, and to apply the law to situations of fact; and the capacity to work, not only with clients but also with experts in different disciplines.

He must also acquire the professional skills and techniques which are essential to practice, and a grasp of the ethos of the profession, he must also cultivate a critical approach to existing law, an appreciation of its social consequences, and an interest in, and positive attitude to appropriate development and change. To achieve these aims, a combination of education at university level and apprenticeship in its widest sense is necessary.²² This quotation from the Report of the Committee on Legal Education sums up neatly and comprehensively the requisites of a professional lawyer.

The University cannot be expected to turn out graduates in law fulfilling all these. Therefore it is for the University to concentrate on the inculcation of law and its principles, the instruction of handling of facts and of the application of the law to facts, the cultivation of a critical attitude to existing law, and an appreciation of law in the context of the society. If all these can be achieved in the four years of undergraduate study the University would have more than discharged its burden. It is futile to attempt to include in the undergraduate curriculum more and more so called "practical" subjects in the hope that this would result in an instant able practitioner. Such an attempt to be comprehensive would result in the mere teaching of rules without understanding, and superficiality. The emphasis in the University curriculum should be on the acquisition of basic knowledge and understanding of the law and where to find it.

²⁰ Under s 2 Legal Profession Act 1970 a person who has been called to the English Bar is included as a "qualified" person.

²¹ There are currently 15 persons registered as articulated clerks. There are altogether 3 persons who have gained entry to the legal profession via this route.

²² Report of the Committee on Legal Education 1971 Cmd 4595 at p. 42.

The postgraduate professional training

It is heartening to note that the legal profession in Singapore has since 1975 accepted that it owes some responsibility for the training of its new recruits. However the postgraduate practical course can be further improved. The obstacles to improvement hitherto have been finance and personnel. To the extent that the Law Society is willing now to contribute some funds to the Board of Legal Education one of the obstacles to having a fulltime Director is removed. It now remains for the right person to be found. Ideally the course should be taught during office hours and by fulltime professional staff. Once this is possible, the course could then be lengthened and the unsatisfactory system of pupillage be replaced entirely. Such an ideal obviously requires money and even if this is available there remains the problem of recruiting suitable personnel. So this remains a dream. Therefore for the immediate future the task is to find a suitable fulltime Director who would coordinate and supervise the teaching of the courses. So long as the system of pupillage remains necessary masters should be again reminded of their responsibilities and pupils in turn should be made more aware of their need still to learn.

Continuing legal education

With the increasing specialisation within each field of law there has been felt among some lawyers a corresponding need to learn about these new branches and developments. Besides, there are those lawyers who after some years in practice feel that they would like to acquire knowledge in a law subject which they did not have the opportunity of reading whilst at University.²³ To water to this the University LL.M. programme should be revised so that graduates in law could acquire the LL.M. degree through course work and examination. This however would require a more satisfactory and stable staffing position in the Faculty.

Apart from the revising of the LL.M. programme which would take some time to implement the Law Society has in recent years conducted one day or one afternoon seminars on certain aspects of law. These I believe have been quite successful and should be continued.

It has also been suggested that the Law Faculty run weekend courses on new developments of the various branches of the law. Something in this line was conducted by the Law Faculty in September last year on certain aspects of transnational enterprise investment laws in Singapore. The problems of holding such seminars relate to costs involved for the funding of suitable speakers and participants and the hiring of premises.

On the whole this aspect of legal education has been ignored as the emphasis has been on the undergraduate and professional training. However it would appear that the time has come when the profession is forced to take cognisance of this aspect of legal education. In this we have much to learn from the American experience.

In recent years there has been an increasing number of young graduates who after some years in practice take leave to read for the LL.M. in London.

